United States Court of Appeals

for the Second Circuit

APPELLANT'S BRIEF & APPENDIX

76-7338

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

DOCKET NO. 76-7338

EDWARD M. ALEXANIAN,

Plaintiff-Appellant,

- against -

NEW YORK STATE URBAN DEVELOPMENT CORPORATION, et al.,

Defendants-Appellees.

BRIEF + APPENDIX

BRIEF FOR PLAINTIFF-APPELLANT

Original Copy

To be argued by
Edward M. Alexanian

IN THE

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 76-7338

EDWARD M. ALEXANIAN,

Plaintiff-Appellant,

- against -

NEW YORK STATE URBAN DEVELOPMENT CORPORATION, et al.,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

BRIEF FOR PLAINTIFF-APPELLANT

EDWARD M. ALEXANIAN

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Dated: Bronx, N. Y.
October , 1976

PAGINATION AS IN ORIGINAL COPY

- INDEX TO REFERENCES -

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT
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Preliminary Statement

Appellant filed his complaint with the Clerk of the lower Court on December 19, 1975 prepaid, because of finacial requirements, appellant filed applications in forma pauperis on December 22, 1975 & February 23, 1976 and, Ex Parte application was granted by memo endorsement dated March 18, 1976. Marshall's office was given summons & complaints for service on March 31, 1976. Defendant City of New York was served on April 5, 1976, who informally by its counsel, by letter and exhibits without date requested extension to answer or move to May 31, 1976, for its self and behalf of all defendants, i. e. if the Court did not dismiss the complaint on its own Motion. Since the element of suprise was the key factor of the defendants legal manuvers, appellant respnded by letter dated April 19, 1976, strenuously objecting to the Court of any extension of time. Said objection was more than reasonable

considering the basic history as related in the complaint. Apparently appellant's letter of objection was no avail, as he received letters dated April 23, April 27, and April 28, 1976 that the extension of time was granted to May 31, 1976.

A few months prior to filing of the complaint, conferred with the Pro Se Clerk of the lower Court and was informed that; " write up your story " . . . " we believe you " . . . " exhibits are not necessary ". Complaint was written up with 28 Causes of Action, 293 paragraphs on 52 pages and a ten page exhibit, thereon annexed.

Questions to be Presented

1. Had appellant used portions of form 2 of Appendix of Forms and had annexed some two or three hundred pages of exhibits, would the lower Court dismissed the complaint on a absurd letter and motion by the City of New York?

2. Had the appellant with the financial means retained a prominent law firm with competant counselors presented the same factors before the lower Court, would this case be before this Court?

3. That basic Constitutional rights, Civil rights, Federal Statutes, certain State Statutes and its Statutes of Limitations should sustained the action in the Lower Court and, the granting of judgements against the movants on the 20th Cause of Action by the appellant, would have been

mandatory by the lower Court.

4. That appellee Pascap Scrap Iron Corp. was in default in its answer dated May 28, 1976 under FRCP Rule 4 (b), requiring signature of attorney in behalf of defendant, which did not appear in its papers and, accordingly the Notice of Motion dated June 4, 1976 was moot. Demand for judgement against the appellee shhuld have been granted by the lower Court. (Compt. 212 & 214)

5. Verified complaint, requires a verified answer and, denieals were made by appellees counsels. and moving appellees by motions before the lower Court for dismissal, pursuant to Rule 12 (b) of the FRCP relied heavily upon the submitted affidavit of appellee Standish F. Medina, which related to the litigation prior to November 2, 1972 and, did not deny any portions of the complaint of incidents and Causes of Action thereafter begining with compt. at 125 through to 293, totaling fifteen (15) Causes of Action, and said had no affidavit/bearing to justify dismissal of the complaint.

6. That the lower Court's dismissal was improper by overlooking the freedom of speech, freedom of individual movement, fraud, forgery by transposing script onto a document, coercetion, legal & other harrassment, the practice of fraudulent statements confirmed by sworn affidavits, personal injury, false arrests, false imprisonment, kidnapping, threats with weapons, personal threats, confiscation of real property, confisication of personal

property, confisication of business inventories, confisication of personal papers & records, the wilfull destruction of automobiles, equipment and r lated parts thereof, the wilfull exposure to thefts of appellant's property, the violation enacted real property statutes within the City & State of New York.

7. That the lower Court's dismissal was improper by overlooking the extreme mental anquish suffered by the appellant, the questionable conduct of a disbarred attorney (convicted felon), whom the appellee refers to with some reverence. The inaction of City & State enforcement form Police, District Attorney, Attorney General to the Courts. That a semi-state agency wilfully breached a contractual agreement with each and every covenent, whereby the conspiracy was formulated long before the agreement went into effect.

STATEMENT OF THE CASE

The appellant EDWARD M. ALEXANIAN was doing business under the style names of Alexander Transportation Co. and Gilford Sales Company at the address of West 176th Street & Harlem River, in Bronx County of New York, New York. Said address was also known on the Tax Map of Bronx County to be Block 2884, Lot 72. Said address and property was acquired by leasehold from Spencer C. Young, Treasurer of the City of New York in March of 1947 and

[redacted]

was continuous through to March 19, 1973. To gain access to this leasehold up to 1955, Sedgwick Avenue (north & south) to West 171st Street, accross the 171st Street Railroad Bridge (east to west), cross-over easements of McNulty Coal Yard to an used park south & north of the foot of the Washington Memorial Bridge to fencing & gate entering Block 2884 crossing over Lots 22 & 50 that directly adjoins Lot 72 (leasehold), mileage approximately 2,000 feet. In the period of years, appellant acquired Lots 22 & 50. Developed and maintained a hardened dirt roadway up to the McNulty Coal Yard (coal yard was paved with belgian blocks). In the course of the years from 1947 thru to Summer of 1970 thousands of cubic yards of cinders, sand, gravel & soil was used to harden the develop the roadway from the McNulty Coal Yard to within 250 south of the northerly boundry line of Lot 72 (leasehold). That from March, 1947 thru to July 27, 1971, Lot 50 of Block 2884 was controlled and held by adverse possession by the appellant and, thereafter portions thru to November 20, 1972. A twenty-five (25) foot strip, running approximately 1,575 feet, directly and adjoining the NEW YORK CENTRAL RAILROAD right-a-way, crossing Lots 22, 50 & 72 to thier extreme border lines of south & north, was given to the APPELLEES by virture of agreement. (see exhibit annexed to complaint)

The heretofore mentioned relinquishment of twenty-five (25) foot strip

of land without proper negociation, instead the prime APPELLEES used legal harrassment, coercetion and coupled with fraud and conspiracy against the appellant, by using false statements confirmed by perjured sworn affidavits, under guise that thier complex project would be aborted, causing the losses of millions of dollars, with calculations of the then present losses were at $125,000.00 per week because of delays in obtaining the twenty-five (25) foot strip of land for an access roadway. Although all thier moving papers were false and full of fallacies, the lower State Courts were obliged to accept and be duped in acceding to thier demands to the full detriment of the appellant, regardless of the circumstances and the ultimate outcome.

Appellant refers to covenent 9. of agreement annexed to the complaint that,

> " Prior to and during construction of the roadway across the Premises Mr. Alexanian will permit UDC and the City to have access to the Development Site. UDC and the City will cause all vehicles under 8 tons gross weight to use the Tremont Avenue Bridge until the roadway is completed unless impractical to do so. "

The key words in the foregoing quotation is TREMONT AVENUE BRIDGE and the words of UNDER 8 TONS GROSS WEIGHT, coupled with the quotation by sworn Medina affidavit at parg. 8; " Because heavy equipment could reach the project building site only by crossing the premises, " This statement is absolutely false and could be considered perjured with intent and complaint at parg. 22 controdicts the statement, including parg. 29, & 33 with the

following quotation of complaint at parg. 29,

> " TWENTY-NINETH: That the period to July 21, 1971, the plaintiff's access roadway was held open by the plaintiff, for the use of the defendants in accordance to covenent (9) of the agreement and absolutely not one UDC and/or Builder's vehicles used the [redacted] roadway for access to the UDC site. "

The issue is centered around one factor only, i.e. the TREMONT AVENUE BRIDGE, begining with November of 1970, which has never been resloved, centering around the often used quotation of Medina affidavit at parg. 8, that "BECAUSE HEAVY EQUIPMENT COULD [redacted] COULD REACH THE PROJECT BUILDING SITE ONLY BY CROSSING THE PREMISES, question now arises refuting that often used statement in affidavits and orally, is daily construction tallies of materials received, movement of equipment on and off the site, the bringing in ready mixed concrete on portable concrete mixer trucks (gross vehichle laden weight over 40 tons) that were supplying for use of construction to July 21, 1971. Reverting back to Medina affidavit at parg. 8, with reference to " CROSSING THE PREMISES " coupled to prior parg. 7, that, " on or [redacted] about November 13, 1970, the City leased the premises to UDC and, coupled to prior parg. 6., Medina affidavit refers to, " eviction proceeding, entitled The City of New York v. Alexanian Index No. L&T 6404/70 (N.Y.C. Civ. Ct. Bronx Co.), against him in the Civil Court, whereby all references to premises in leases, leaseholds, proceedings has been documented in the records with the specific description of Block

and Lot numbers and, said lease, leasehold, premises and proceedings contains Block 2884, Lot 72, including the annexed agreement to the complaint, whereby the applicable appellees had no right to invade, destroy and confiscate real & personal of Block 2884, ~~as~~ Lots 22 & 50, as refering to complaint at parag.'s 151 through to 156 and, nowhere has any one of the appellees has denied and/or refuted these facts before the lower Court. Silence and staying mute is an open admission, that they violated the Constitutional provision, Under Due Process of Law. (appellant has photos taken by disinterested party showing the actual destruction by one of the appellee's haevy duty loader)

Medina affidavit at 10: " Upon information and belief " . . . ." as per sketch to be approved by Mr. Alexanian "; here again appellee has retreated from his original papers, whereby said papers have been repeatedly used over and over again (Arigiro affidavit . . . " and the sketch approved by Mr. Alexanian " and, (Hazen affidavit . . . . " as sketch to be approved ", complaint at 127 and, reference to the recorded sketch which was a forged (transposed) document, complaint at 54, 127 and, said affidavits were drawn up by appellee for signatures, complaint at 53. and, Medina affidavit at 28; without the phrase of information and belief . . . " and that DPL&G " . . " apparently overlooked the self defeating, contradicting affidavits supporting thier (sic) motion " (Complaint at 128). And goes to further state in

ing thier (sic) motion " (Complaint at 128); And goes further to state in context; With respect to these allegations, three observations should be made:

(a) Virtually all of the points raised by Mr. Alexanian in instant complaint . . . . He has repeatedly asserted . . . . was secured by fraud . . . . that the affidavits and testimony offered against him were purjured, and so on. Each and every one of these contentions has been rejected, some of them on several occasions.

That heretofore mentioned quotation out of context is absolutely and completely false, without any foundation whatsoever; the matter of the forged SKETCH was never rejected, since it never appeared in any of the moving papers, hence no testimony gould have been given, furthermore at no time whatsoever was there any testimony given with references in matter of litigation in Bronx County, Civil and/or Supreme Courts by the appellant and/or appellees on any issue whatsoever. However testimony was given on July 27, 1971, which was limited to the aspect of process serving and, once again testimony was given in the aspect of process serving on November 2, 1972, by appellee Philip Salomine, followed briefly by the appellant and, on the following day November 3, 1972, by appellee Robert Germano, followed by appellee who was not permitted to testify in his own defense by the Court (Complaint at 137).

Medina affidavit at ~~10~~ 28 (b); which further states without the

benefit of "information and belief;

(b) No final judgement has been rendered in either the First Bronx Action or the Second Bronx Action, except with respect to Mr. Alexanian's damage claims. Although he has filed numerous notices of appeal from interloctory orders about which he complains, Mr. Alexanian has yet to perfect an appeal. Having failed to accomplish his objectives through the lower state trial courts, Mr. Alexanian now imposes upon this Court by asking it to review the correctness of the state proceedings from which he has seen fit not to appeal.

The fallacy of the heretofore mentioned quotation (Medina Affidavit at 28 (b) is controdicted in Medina affidavit 23: " dismissed on April 6, 1973 " said dismissal was rendered and signed by Mr. Justice William J. Drohan (appellant's former attorney . . . . grounds for disqualification, as Justice Drohan was fully aware of his legal difficulties and harrassments) . . . " judgement . . as Exhibit L " (Bx Cty Clerk's office records - Marked-Off) . . . " moved to vacte the judgement" . . . . . " The motion was denied " . . . " on October 12, 1973 " and, Medina affidavit at 14: " March 20, 1975 . . . moved . . . to enlarge his time to perfect the appeal." (by new attorney, former attorney was recently disbarred) (disbarred attorney has been named as defendant in this action) " That motion was denied, and the appeal was dismissed by the Appellate Division on April 10, 1975." Appellant moved twice for re-argument as pro se, with photo copies of many, oh so many exhibits to induce the Court for reversal of dismissal for right to appeal (three of the exhibits

was annexed to ~~appellees~~ appellant's affidavit in reply to Medina affidavit before the lower Court) and, twice more the Appellate Court denied the motions for the right to appeal . . . without comment. Hence, since no appeal rights could be obtained in appellant's capacity of pro se within the State judiciary, the said order of July 22, 1971 stood firm. As with further reference to the Medina affidavit at 28 (b) heretofore mentioned both actions were companions, whereby if the first action was dead and buried, so was the Second Bronx Action, which is based on an absurd, un-consitutional order, which usurps the UNDER DUE PROCESS provisions and denying the appellant's right to trial to wit;

> FUENTES v. SHEVIN, 407 U.S. 67 (1972)
> " Procedural due process includes right to notice and opportunity to be heard at a meaningful time and meaningful manner. U.S.C.A. Const. Amend. 14-ID "

The said order of July 22, 1971 has been annexed to the Medina affidavit as EXHIBIT "C", with the penciling out " there being no disputed issues of material fact " (page 2) for the benefit of the Court and the appellees and, a provision by hand script;

> " Copy of this order with notice of its entry shall be personally made up the defendant on July 22, 1971 or failing to do so by having a copy ....of firmly affixed to the outer door of the old "office" structure on the premises discribed herein on the said date."

The heretofor mentioned order of July 22, 1971, was given to appelleeJoseph H. Schnabel (attorney) to serve upon the appellant . . . . he neither served the appellant, nor did he follow other provision perscribed, for this

indescretion, with approval from superiors (Complaint at 67 thru to 74) and, subsequently the appellant was held and adjudged in contempt of Court for failure to obey an INVALID ORDER.

The Medina affidavit at 11: " As a then associate with DPL&G, " which was in July, 1971, however as of October 17, 1973 (Statement of Facts submitted to Hon. K. T. Duffy by appellee Juda Dick) was well seasoned on the litigation from A to Z and, has fully read the Complaint with its annexed Exhibit and, whereby simialar copy from thier own files was annexed to his own affidavit, with provisions of payments (at 8) $3, 500., $3, 500. and $3, 000., totaling $10, 000, whereby the first payment was made upon signing of agreement, the second payment was held up as hostage but was paid in July instead of the provided date of May 1, 1971, therefore the fallacy of: " was paid approximately $14,000 ", an actual sum $7,000 more than was paid, nor was the last payment of $3,000 paid to the appellant, nor have the appellees honored any facet of the agreement, nor did appellees honor the Notice provision (agreement at 12, as annexed to Complaint) as stated in (Medina affidavit at 16) and, any statement whether upon information and belief should be proven, either by the person and/or by its source. Appellant would have demanded of the appellee "UDC" and/or its attorneys, and/or any statement or

affidavit in thier behalf. The agreement as annexed to the Complaint and, to the Medina affidavit states;

> 12. All notices hereunder shall be properly given if delivered by hand or sent by certified or registered mail, if to Mr. Alexanian, addressed to him at 2454 Tiebout Avenue, Bronx, New York, if to UDC, addressed to it at 1345 Avenues of the Americas, New York, New York 10019, and if to the City of New York, to the Commissioner of the Department of Real Estate, Department of Real Estate, 2 Lafayette Street, New York, New York, or to such other address, in each case, as the addressee shall advise the other parties hereto in writing.

and the affidavit (Medina at 16) states " sent a formal letter to Mr. Alexanian and his attorney, " . . . . . " Mr. Alexanian refused to do so. " This must be proven by Return Mail Receipts. Appellant says, they can not, because none was sent either to him or the attorney. Just as appellee Mr. Schnable did not follow the instructions of Justice Loreto to mail either Certified or Registered Mail a copy of the order dated July 22, 1971 to the appellant. Mr. Schnable completely disregarded the Judge's order (Order is documented to the Court file) and did not follow the instructions in any form whatsoever, as more freely described in Complaint at 67 thru to and including 74.

The Medina affidavit at 19, " Having failed to persuade Mr. Alexanian voluntarily to vacate the premises, " Yes, no corupt practices were inducements to vacate (Complaint at 160), nor the forgery (Complaint at 63, nor any of the events as described (Complaint at 88 thru to and including 90), nor the incarceration of 32 days (Complaint at 143 thru to and including

90), nor the incarceration of 32 days (Complaint at 143 thru to and includes 145), however on January 3, 1973, appellant was fully convinced and persuaded his life was in jeproday (Complaint at 165, 166, 168, 169, 172 & 177) and was preparing for immediate liquidation of his assets. If appellant had any second thoughts, he was further convinced by authorized personnel of the City and State of New York, with weapons (Complaint at 179) which was the best guarantee to persuade any individual person.

The Medina affidavit at 19, further states: " UDC desperately needed the as a staging and storage area " the said statement was without merit and was false, supported by perjured, outlandish affidavits of appellees Vincent J. Argiro, Robert G. Hazen and Nicholas Carozza, which were incredable to the extent of repeating in the witness box, Robert G. Hazen and Nicholas Carozza could have been cited for perjury before the Court on demand of the attorney for the appellant. The mere reading the affidavits out loud in a large size court room filled to capacity of disinterested spectators and, the appellant would venture to state that at least twelve (12) spectators could have demolished the testimony, by refuting the pertinent aspects and, the said disinterested witnesses who would have been unsolicited, unpaid and without question would have been accepted by the Court, hence the injuction would not

have been granted, nor the appellant incarcerated, nor would the Complaint of this case beer filed with the lower Court.

The Medina affidavit at 19, also states: " (which it was leasing from the City and without which could not proceed with the project) " This statement then and now is still completely false (Complaint at 92, 93, 94 and 95) coupled with (Complaint at 159, 160 and 161) as the appellee UDC did obtain a short term lease for one month from the City in November, 1970 for sum of $1.00 and, said lease was for Block 2884, Lot 72 (copy of lease has been documented) and, at no time whatsoever did the appellant relingwish any portions of Block 2884, Lots 22 and 50, other than the twenty five (25) foot right-a-way and, said rights given to UDC was automatically withdrawn by thier legal action on July 22, 1971. The UDC and its co-appellees had absolutely no right to enter the fenced in area consisting of Lots 22 & 50 of Block 2884, nor did they have right to distrupt the orderly placed automobiles, trucks, equipment and inventories of those two Lots, rendering them useless with a massive Bull Dozer doing the destruction, rendered into scrap.

The Medina affidavit at 20, states: out of context, "(On October 27, 1972, Justice Loreto granted UDC's motion.)" . . . "(copy .... as Exhibit I)" (b) "(Mr. A. & wife "forthwith" to vacate . . . remove . . . property and

belongings within 30 days; and ~~(m)~~ (c) It authorized and permitted UDC immediately to enter the Premises and "to move and relocate within the boundaries of the Premises . . . (Alexanian's) property and belongings in such a manner that the Premises can be used by UDC." . . . . "Although . . . order was properly served . . . . they did not comply.) " Rebutal; with the truth: Justice Loreto should have disqualified himself, because of the extreme animosity created by his unjust orders on July 22, 23 and 27, 1971 (see Complaint at 129);

> Quote: "This application neither requires nor should it be referred to Mr. Justice Loreto, whose prior involement herein was in totally seperate action brought by defendant UDC, for relief not analogous to that which plaintiff herein seeks. Accordingly, there is no statutory or decisional requirements for referral. Candor also impels the revelation that the plaintiff herein intially appeared before Mr. Justice Loreto without benefit of counsel, and much rancor and animus characterized that encounter. Therefore, Special Term, as presently constituted, should entertain jurisdiction of this application "

Mr. Medina made a reply to heretofore mentioned quotation by letter to Justice Loreto upholding the referral (to an opinionated judge) without benefit of copy to the appellant (documented in the file). Rebutal: (b) let us assume in arguendo, that the order was properly served, which it was not. Could any red blooded American and/or alien in the United States, with its Constitution and statutes comply with an absurd order, with in mind of past history of the appellees of destruction and thefts (see Exhibit "K" attached to Medina

affidavit and, this Court panel should bear in mind that these orders were drawn up by the appellee, without any regards to the outcome of the lives of the appellant and his wife. Rebuttal: (c) was and is rediculouously absurd in all its aspects, let us assume in arguendo, had they (UDC) followed thier obtained order, which they did not/and could not under any circumstances whatsoever, inasmuch as more than ninety (90%) percent of square footage was fully occupied with the properties and belongings on Block 2884, Lot 72 and likewise on Lots 22 and 50. They were defeated by thier own order, which they drew up, obliging put into effect by Justice Loreto. Upon relalizing thier error and mistakes, the order was not properly and/or served upon either the appellant or his wife and, upon the following day after supposed service, an order for contempt was obtained and supposedly served (see Complaint at 132 & 133). The objective was to hit, strike no matter how unconventional and foul the blows were, after all the referee (Judge) was sixteen or blocks away, nor was he interested in what the appellant had to say, whether it was in pleadings or in person.

The Medina affidavit at 21: THE COVER UP of the heretofore mentioned improper and invalid of service, with a consecutive invalid service of an order for contempt. Affidavit states, taken out of context: "contempt hearing . . . DPL&G attended . . . before Justice Loreto . . . judgement and

Final Order . . . . as Exhibit J, . . . that: (a) had been properly served on Mr. & Mrs. Alexanian, who "willfully and deliberately disobeyed"; (b) offenses committed by them were calculated to and actually did prejudice the rights and remedies of UDC; (c) vacated the Premises by November 10, 1972, an order of arrest . . . taken into custody; and

> (d) If Mr, Alexanian or his wife remained on or returned to the Premises on or after November 10, 1972, UDC was authorized to "enter upon and use the Premises and . . . (to) take whatever lawful action is reasonably necessary to secure access to and use of the Premises at and after that time."

Rebuttal: The contempt hearing was sham, it was conducted inappropiately in a secret courtroom, barred to the general public, the press and news media (Complaint at 135); Appellant briefly testified at Court's direction, without either direct or cross examination by either counsel (Complaint at 136); Appellant was placed in the witness box by his counsel on November 3, 1972, and the Court refused to permit appellant to testify in his own defense (Complaint at 137). Rebuttal: Mr. Medina in behalf of all the applicable appellees, demanded judgement and final order, with the full knowledge that this and all proceedings had heretofore were improper, which were obtained with political motivations, i.e. , City, State and prominent law firm with wide spread influence. Rebuttal: (a) Appellant and Mrs. Alexanian were not properly served, therefor did not willfully and

deliberately disobey any order (Complaint at 132 and 133). Rebuttal: (b) Appellant and Mrs. Alexanian did not commit any offenses, therefor could not predjudiced of any rights of UDC. Rebuttal: (c) Since Appellant amd Mrs. Alexanian was not served, and let us assume in arguendo, had service been proper, was the appellant and Mrs. Alexanian afforded a Constitutional right to trial by jury, and that the Court tried Mrs. Alexanian in abstantee and found guilty of charge of Contempt of Court, when she was never a party to any of the proceedings before Justice Loreto. Did the Court permit appellant to testify in his own and Mrs. Alexanian's defense? QUESTION: Why did the Court pencil out pencil out " and his wife "? That the Court was extremely emphatic in its decision on November 3, 1972 at the secret court room of holding both the appellant and Mrs. Alexanian in contempt of Court. That out of Judge Loreto's firmness and prodding by the appellees, thier Exhibit " J " (annexed to Medina affidavit) submitted for signature on November 8, 1972, and taken out of context:

> " and upon all prior proceedings had herein, and the parties, by thier attorneys and witnesses, having been heard on the record, "

completely disregarded the appellant and Mrs. Alexanian's Constitutional and Civil Rights, since Jsutice Loreto refused to permit appellant (witness) his right to testify. Does the District Court agree with the methods employed

by the appellees in thier conduct of legal harrassment ? Appellant has recited (Brief at 18) the Medina affidavit 21 (d) in full length with reference to appellee's Exhibit " J " and, said quotation does not appear in the exhibit submitted to the lower Court, nor does it appear within its moving papers of Notice of Motion dated August 6, 1976, containing the full affidavit of Mr. Medina and its exhibits. The lower Court apparently missed this quotation in its review the lengthy motion papers of appellees DPL&G, however the appellees have consistanly made errors and ommissions before the lower State Courts. As in hindsight, Medina affidavit at 21: has annexed thier Exhibit " J ", and taken out of context:

> " that were calculatedto and actually did defeat, impair, impede and prejudice the rights and remidies of defendant UDC herein with respect to entry upon and use of property (hereinafter to as the "Premises) located approximately between 172nd Street and 176th on the Harlem River in Bronx County and consisting of Block 2884, Lot 72; "

Appellant refers to "(hereinafter to as the "Premises") . . . consisting of Block 2884, Lot 72; ", whereby in all proceedings had heretofore within the lower State Courts, and the Appellate Division thereof, and leases for appellant and appellee UDC, and the annexed agreement to Complaint and Notice of Motion before the lower Court, has constantly described the Real Property as " Block 2884, Lot 72, not the tricky phrase as inserted after

all the proceedings had heretofore, and conveniently appears in the Judgement and Final Order upon Contempt Proceedings dated November 8, 1972. Thir insertion is contrary tc the affidavits of Robert G. Hazen, Nicholas M. Carozza, Juda Dick, Esq. and letter of Standish F. Medina, Jr. and, taken out of context of Exhibit " I " dated and certified on October 27, 1972, which was submitted as annexed to Medina affidavit 20;

> " NOW, upon reading and filing the affidavits and accompanying exhibits of Robert G. Hazen and Nicholas M. Carozza, sworn to October 3, 1972, and the affidavit of Juda Dick, Esq., affirmed October 8, 1972, and the letter of Standish F. Medina, Jr., dated October 12, 1972, with proof of due service, all in support of the motion, and upon reading and filing the affidavit of Leslie H. Goldenthal, Esq., affiremed October 10th, 1972, in opposition thereto, and the motion having been duly referred and submitted, and due deliberation having been had thereon, and it appearing to the satisfaction of the Court that defendant UDC will suffer irrepairable injury unless the relief requested herein is granted; it is
>
> ORDERED, that . . . immediate possession and use of the Premises described in the pleadings herein; "

The heretofore named persons, including Justice Loreto are named defendants in the Complaint. The named persons are appellees before this Court. and Charles A. Loreto is in default for failure to file answer to the Compalint. The heretofore mentioned Order dated October 27, 1972, came before Justice Loreto by referral of Notice of Motion for a Preliminaty Injuction dated October 3, 1972, to be heard on October 11, 1972. Leslie H. Goldenthal, Esq., attorney for appellant filed in opposition on " October 10, 1972 " which included the <u>rancor and animus</u> quotation (Complaint at 129), and the

letter of Standish F. Medina, Jr., dated October 12, 1972 (based on mail delivery), brought the Motion to be heard two or three days beyond scheduled date. The Order on its face indicates that the Motion was pre-judged, and Justice Loreto should disqualified himself from acting upon this motion immediately on the quotation of rancor and animus (Complaint at 129), setting aside clash of personalities, both orally and recorded from the aftermath of his Orders dated July 22, 23 & 27, 1971. The heretofore mentioned Order dated October 27, 1972, is silent to the name of appellant, regarding an affidavit, and to Vincent J. Argiro affidavit affidavit with regards to forged (transposed) document (Complaint at 126, 127 & 128). Appellant had not seen, nor was aware of the October 3, 1972 Notice of Motion, had not been served with any of the Orders from the outcome ofthat Motion, other than the Order for his commitment on the day of his arrest and the Order of Release on the given dates of November 20, 1972 and December 22, 1973. Appellant was so bewildered, fraught with anxiety and extreme mental anquish, he did not begin to fully understand the reasons for the impact, until he learned the herein sued attorney had been disbarred (Complaint at 219). Appellant retain new counsel to perfect an appeal of the July 22, 1971, order of Justice Loreto. Said attorney Noticed Motion for enlargement of time to Appeal; Motion was

denied, appeal dismissed by Appellate Division; appellant moved for re-argument twice thereafter as pro se, both motions were also denied in the same manner as the first Motion; denied without comment.

The Medina affidavit 22; states out of context;

> " On November 20, 1972 . . . . was arrested . . . in custody until December 22, 1972, when released . . . conditional release. . . . Upon information and belief, . . . but subsequently left to set up business elsewhere. "

The arrest custody was predicated upon the appellant , with following provision " Hold prisoner until he preforms an act. "(Complaint at 142). Did the appellant preform the act, if not, who preformed the act stated in arrest and custody order (complaint at 152) ? Since the appellant did not preformed the act, why was he released? These were the questions that have been overlooked between the Complaint vs Medina affidavit. Upon information and belief, is mere sham. For five (5) years DPL&G has been the general counsel for UDC (Statement of Facts), and has moved at its direction (reply affidavit of appellant) to every facet of litigation from November, 1970 thru to September of 1975. The history in the Complaint has been complete from 1970 to 1975, and lower Court should have considered the phrase absurd, and raised questions on its own volition. The Medina affidavit is repititous of its services rendered in behalf of appellees UDC as introduced by appellee Juda Dick by letter without date to Honorable

Judge Duffy, with the following excrepts taken out of context;

> " a pro se action . . . who insists . . . frivilous litigation to harass any adversary or party . . . prior dealings." " The complaint, . . annexed, names 44 parties . . . John Doe . . . corporate and individulars, . . . police captains, . . . Governor and legislators . . . Hon. Charles A. Loreto . . . fails to disclose . . . seeking recovery from the undersigned."
>
> " no jurisdictional . . . any Federal subject matter, . . . nor diversity . . . to review . . . did not appeal . . . guise of "due process".
>
> " to obtain a preliminary injuction . . . from this Court. Judge Brieant . . . denied . . . motion . . dismissed the action . . . (72 Civ. 2748). . . . copy . . . is annexed. "
>
> " appealed to the Second Circuit, affired without opinion . . . copy of UDC's brief to that Court is enclosed herewith, . . . brief history of the litigation . . . courts up to October 1973, is annexed."
>
> "It is clear to the undersigned that the complaint totally devoid of merit . . . cause needless uproductive hours of worry by counsel . . . Court.
>
> "read the complaint . . . whether Federal . . . jurisdiction exists. . . . should dismiss the action . . . avoid . . . answers and motions.
>
> " If your Honor declines to act informally, I request an extension of time to answer or move for all defendants who have been served to May 31, 1976. "

Appellant was outraged in the manner of approach by this particular appellee who has an offensive personality within the legal profession, has been rebuked more than once in the appellant's presence by lower State Judges, and bitter denouncements by co-attorneys within the Corporation Counsel's office. By recollection, appellant remembers various other methods used in prior litigation practiced in the lower State Courts, by back door and telephone manipulations and manuvers. Only this time we are within the Federal Judiciary, therefore Mr. Juda Dick apparently, according to the

indications of past history, was picked to plant the seeds of depicting the charcater of the appellant " bringing frivolous litigation to harass any adversary or party with whom he had prior dealings " and, with a follow-up of his affirmation dated May 17, 1976 (affidavit at 3): "it is clearly the product of an emotional man on harrasment of all persons he believes have wronged him," Appellant responded by letter dated Appil 19, 1976, to Juda Dick's undated letter to Honorable Judge Duffy, strenuously opposing of granting an extension of time to May 31, 1976. Although appellant's letter recited many reasonable details why the extension should not be granted, appellant's implorations went unheeded. The said extension of time was granted to the requested date of May 31, 1976. Appellant was given the courtesy by letters dated April 23, 27 & 28, 1976, that Mr. kevin Castel had imformed that the time was extended to and including May 31, 1976.

Honorable Judge K. T. Duffy by Memorandum and Order dismissed all 28 Causes of Action on June 18, 1976, with the following acomment;

> " Various motions have been made to dismiss the complaint herein. I have spent many hours reviewing the 293 paragraph document entitled "Complaint, particularly with a view to interpreting it in the most favorable light since the plaintiff is appearing pro se. It now appears clear to me that the allegations do not make out any justiciable cause of action.

The appellant completely disagrees with the lower Court, with respects to the

"Complaint" does not make out any justiciable cause of action. True there was for Notices of Motions before the Court, three motions was just matter of form, the fourth motion was lenghty and voluminous, which appellant has rebutted in length of this brief. That each of motions moved, pursant to Rule 12 (b) of the Federal Rules of Civil Procedure, seeking to dismiss the 28 Causes of Action; lack of jurisdiction, failure to state a claim, diversity of citizenship, insufficient service of process and, barred by collateral estoppel and applicable statute of limitations. Appellant by reply affidavits, countered with grounds clearly stated with the Constitution of the United States, arising under Amendments V, VII & XIV and, under Federal Statutes; 28 USC 1343 (3) & (4); 42 USC 1983; 42 USC 1985 (3) and, the following State Statutes;

(a) NY CPLR 214: statute of limitations on torts; three (3) years from March 19, 1973, last day of occupancy.

(b) NY CPLR 213 (8): statute of limitations on fraud; six (6) years from day of discovery.

(c) NY CPLR ~~30002~~ 3002 (e): sustains this action against all the named and un-named defendants.

It was quite apparent that the then moving appellees took full advantage of appellant's lack of legal background to use the proper form (form 2 of

Appendix of forms) for use in his Complaint, however appellant's affidavits in reply sustained the Complaint before the lower Court. Reverting back to the Judah Dick letter (undated), with its enclosed documents (Statement of Facts) requesting the Court to dismiss on its volition and/or extension of time, coupled with his affidavit (2) " It is so rambling and vague that it is almost impossible to understand the nature of the allegations made against many of the defendants." It is the firm opinion of the appellant that Honorable Judge K. T. Duffy accepted the heretofore mentioned phrase after reading the Complaint, and incorporated it into his decision of dismissing the action. Now the question arises in this Court, had the Complaint been written by prominent law firm, with competant counslers, containg the same facts, supported by documents and exhibits, would the lower Court dismissed the action.

FRAUD, CONSPIRACY AND THEFT

Honorable Judge K. T. Duffy has denied the appellant his rights under the Constitution for "due process" by not exploring all the facts before him (Complaint), by accepting the various (parts of) motions as to be truthfull and, it was incumbent upon the lower Court explore each of the 28 Causes of Action. Fraud, conspiracy and theft prevailed through out

portions of the filed Complaint. Fraud began in August, 1970 (Complaint at 10) when appellees used a posted sign "Gross Vehicle Weight 8 Tons" on the TREMONT AVENUE BRIDGE indicating a very unsafe bridge (Complaint at 9), appellees used as argument to induce Appellant to an unreasonable position before Judge Wachtel (Complaint 17 & 18) and, because of perjured fraudulent statements and affidavits before the Civil Court in Bronx County, appellant was induced to sign and execute an agreement with appellees on January 13, 1971 (Complaint 27) and, in accordance to agreement (annexed to Complaint) appellant agreed to keep open a roadway through his premises to the UDC construction site. The appellant's roadway was available to the UDC for use to July 21, 1971, UDC never utilized the appellant's roadway from the date of signed agreement to July 21, 1971. During this period UDC used the TREMONT AVENUE BRIDGE to transport extra heavy equipment to and from thier site, a specific instance (Complaint 33). On July 22, 1971, at Bronx County Supreme Court, heard counsel for UDC and confirmed By Justice Loreto that the object reason for the proceeding was access across appellant's property, because of the TREMONT AVENUE BRIDGE (transcripts annexed to reply affidavit to DPL&G motion) and, said perjured fraudulent statement has been used continuously for almost six (6) years to be included in the (Medina affidavit 8) DPL&G motion.

Conspiracy began long [illegible] before appellant and UDC ever met, since the posted sign of "Gross Vehicle Weight 8 Tons" was placed during the moving out period of companies from the construction site that they formerly owned and occuppied (Complaint 8) and, said movement over that TREMONT AVENUE BRIDGE was continuous through to August 1971 and thereafter. The conspiracy was picked-up by the appellees and, coupled it with fraud to subdue the appellant, at the same time used the State Courts, spread rumors amongst thier personnel, fed false information to enforcement officers, both police and prosecutors. The expressive purpose was to gain complete control of the properties held by the appellant without just compensation for his endeavers (today these properties have become one vast dumping grounds for refuse & etc.).

THEFT: Under State Statutes, taking properties, personal or otherwise without consent or authorization is unlawful, however when the City and State of New York combined forces, with its enforcement personnel, its prosecuting offices and its Courts to seize and confiscate privately properties from an individual citizen, it then comes within Federal jurisdiction protected by the Constitution of the United States, commonly known as "due Process". The 20th Cause of Action of the Complaint, paragraphs 202 through to 210 included, is the object of theft, stealing,

larceny or whatever it may be called in State laws and its penal code. Now most pertinent question before this Court, which has been overlooked by the lower Court in its dismissal of the actions when it was before the lower Court. (a) The cited paragraphs within the Complaint, clearly indicated without question that " Due Process " was violated, supported many, many other pargraphs of the other Causes of Actions. (b) That not one of the appellees, by affidavit has specifically denied the 20th Cause of Action other than by counsel in thier specific answers. (c) Not one of the appellees, moving at lower Court has denied by affidavit or otherwise of the 20th Cause of Action. (d) appellant moved on appellees motions for judgement on the 20th Cause of Action in his reply affidavits. (e) The silence of the appellees on the 20th Cause of Action, is indisbutably an admission to the facts as related in the Complaint. Without doubt, the lower Court was in error to dismiss this Cause of Action, which is only one of 28 Causes of Actions.

LEGAL HARRASSMENT: (Complaint 18) " subjecting Alexanian into an unreasonable stipulation ", and this same phrase was used in the Complaint before Honorable Judge Brieant on June 29, 1972, because the subject matter was before the State Court (Medina affidavit, annexed as

"Exhibit F" page 1) ? Edward M. Alexanian was subdued into a stipulation before the Court (irrepairable harm) ", Judge Brieant's dialog with appellant in transcript (out of context) as recorded;

Mr. Alexanian: That is the reason why I am prepared to put any moneys that they have given me, any moneys that I owe them, I am prepared to put escrow, becaues they come into court each time and say They paid me money, and that I am a squatter, I dont pay rent. I have gone through being degraded. They called my building a shack. They have used every deroggatory statement known

The Court: Well, I don't excuse that, but I am not responsible for what they do in that regard.

Mr. Alexanian: My attorney says that is fair game. I say that is not fair game.

The Court: I dont say it is fair game, but I am not responsible for it and it is not anything that I can provide you any remedy on. Now, the situation you have here is this: The Supreme Court of the United States, in the United Coastline case . . . the proceedings in state courts should normally be allowed to continue unimpaired . . . . . .

Mr. Alexanian: I am committed to $5,150. less, which I havent paid is $1,500 I am told to pay $800 tomorrow. Now, I cant fight courts, I can not fight my adversaries, I cant fight my attorney. . . there is supposed to be appeals . . . Appellate Division. There is no appeal.

The Court: I know you have a grievance here . . . . . .

Mr. Alexanian: When you go in the state court and ask the clerk for something he says see a lawyer . . . ask question "See a lawyer". I dont

have a lawyer." "See a lawyer." They just push you around.

The Court: I am sorry to hear that . . . . .

The dialog between Judge Brieant and appellant was in reference to " Complaint as Exhibit F, annexed to Medina affidavit " for a TRO, with an insignificant sum of money (token amount). The dismissed Complaint before this Court, has bee depicted by the appellees (Medina affidavit 28"(c)"): "This Action is but a continuation and extension of the first Federal Action"; (Judah Dick affidavit 4): "The Court may take judicial notice that Judge Brieant . . . "; (Case affidavit 3): "I discovered two copies of the summons and complaint" . . . and retreats (Case reply affidavit XX 2.) "I did not, of course when I executed my original affidavit on May 27, 1976 (UDC was served on May 5, 1976) that Mr. Callahan had accepted service . . ."; (Case affidavit 4): "As explained in memorandum of law (other pertinent . . are set forth in full in the affidavit of Standish F. Medina) which accompanies this affidavit " and (Rosenblatt affidavit 7) " would be repetitious since . . . affidavit of Standish Medina . . . . is quite comprehensive ". Now, all quotations are from attorneys. The Complaint as written seeks damages for 28 Causes of Action for acts done from the period of late 1970 thru to February 1975, and any referral to the June 29, 1972 dismissal by Judge Brieant is absurd and a sham, and the HARRASSMENT was continuous at every opprotune occassion as it

arised right into the lower Court to this Court. The affidants consider it fair game. Appellant does not call it fair game, i. e., (Medina affidavit 16); "on . . . June 28, 1972, he commenced . . . Bronx Supreme Court . . . . Index No. 14187/72" the said action was commenced on June 29, 1972, with an Order to Show Cause; was argued on the given date of July 6, 1972, hence Judge Brieant had already dismissed the action. The affidavits without disbute are distorted, including the memorandum of law submitted ina form of distortion. This form of distortion is unexcusable as submitted to the lower Court of this present action, and to inclued this Court (Exhibit "H" as annexed to Medina affidavit). This form of harrassment is considered fair game. QUESTION: or is it? The appellant has forced into retirement, receiving $184.10 per month, commenced from July 1976, without benefit of accumulated wealth confisicated by the applicable appellees (20th Cause of action). Because of dire circumstances appellant filed an Ex Parte application to the lower Court on February 23, 1976, to proceed in forma pauperus to pay in alternate manner " . . . permitting your deponent to make weekly payments of $10.00 per week to the U. S. Marshall for service of Summons and Complaint" . . . . . " . . . "payment shall be made in full". Application was granted by memo & endorsement March 18, 1976, excluding appellant's offer of method of payments. Summons and Complaints were given to the Marshall's

office for due service on March 31, 1976. Since it has been said "that you can/change the spots upon a lepord", appellant is quite familiar of the appellees form of operation. Conferences, seminars are held amongst them. Now, the new lowest form of LEGAL HARRASSMENT (permitted by rule or law), the order of attack upon appellant has changed; FIRST: UDC, by its counsel filed " MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO APPEAL IN FORMA PAUPERIS ". In essance appellees have deemed appellant's Complaint without merit, and the present appeal can only be regarded as frivolous. In thier Memo of law submitted with Notice of Motion, dated May 28, 1976, stated to the Court "infirmities which on the face of the present complaint make repleading moot.". Appellant responded to thier July 26, 1976, memo of law, by letter dated July 28, 1976. SECOND in order: Affirmation of Judah Dick (City appellees) dated July 30, 1976 was filed in opposition to grant appellant's right to appeal, stating (affidavit 2) "action is patently devoid of merit . . . emotional person in bad faith (label pinned on by Judge Loreto) to harass the defendants. . . . waste of taxpayers' funds" and, (affidavit 3) "In 1972, plaintiff brought on a similiar, if not identical action in the District Court (72 Civ. 2748) This Court upheld the dismissal (72-1788) without opinion." Appellant did not reply to the Judah

Dick affidavit, inasmuch the Court granted the motion by endorsement filed on July 27, 1976. THIRD in order: Appellees DPL&G dis-satisfied withe the lower Court's granting appellant's leave to appeal in forma pauperis, appellees moved by motion for reargument dated August 6, 1976, submitted for August 17, 1976, repetituous with the same issues of "frivolous . . . reject- of two federal district judges and three judges of the Court of Appeals, as well as by the New York state courts". Motion for reargument contains all the heretofore papers submitted in thier Notice of Motion to dismiss dated May 19, 1976 as Exhibit " A " and, Exhibits "B", "C" & "D" to raise the issues supporting the cause for reargument. Appellant replied with two affidavits dated August 9, & 11, 1976; specifically to thier Exhibit " B " displaying photostats, certified by the City Register, referred to; Real Estate conveyance of a "Bargain and Sale Deed", to wit;

(a) A & A HOLDING COMPANY, a co-partnership with offices at 600 West 187th Street, New York, New York,

(b) EDWARD ALEXANIAN and GRACE ALEXANIAN, his wife, both residing at 2861 Creston Avenue, Bronx, New York

(c) Witnesses signatures to the signatures of Aram Avedissian and Edward Alexanian as co-partners of A & A Holding Co.

Appellant rebutted DPL&G, " by implication and inuendo, implies that your

deponent has had more than one wife" . . . . . "This reference to wife and/or wives are absurd" . . . . . "defendants have personally met Mrs. Alexanian in mid 1970, 1971 and 1972 and 1973, long before the given date of December 7, 1972 (reply affidavit 5). Subsequently appellant filed Motion to File Typewritten Briefs and From Preparing and Serving Appendix, dated August 28. 1976, to this Court. DPL&G by its counsel Standish F. Medina, Jr. filed affidavit in Opposition to File Typewritten Briefs, dated September 3, 1976, which was repetitous to all its moving papers before the lower Court, except (affidavit 6); "pendency of the motion for reargument in the district court, this Court should deny Mr. Alexanian's motion for leave to file typewritten briefs" . . . . . "Rule 24 (c) of the Federal Rules of Appellate Procedure, Mr. Alexanian should not be permited to file" . . . . . "unless the district confirms that he is entitled to . ." . . . . "Since substantial reasons justifying the denial of leave . . . . have been presented". Appellee's affidavit discredited his crediabilty, (Reply affidavit 4): "Affidant further states"; ("and certain other state defendants filed papers in opposition to Mr. Alexanian motion") "nothing in this part of statement is truthful, all state defendants were in default, other than the New York State Park Commission for the City of New York, which to the knowledge of your deponent did not

reply. Appellant's reply affidavit (5) rebutted the Medina affidavit, Taken out context; "(a) your deponent was virturally destroyed . . . forced into retirement"; "(b) DPL&G . . . raised certain questions to marital (wives) status . . . explanation was in order." "The marital status attack by inuendoes was un-warranted . . . would avail himself before the Court . . . has annexed the following exhibits;" "Exhibit (A): Photos taken of Mrs. Alexanian . . . . . dogs and piece of equipment readily indentifable." Exhibit (B): "A copy of a letter written by her own hand" . . . . "Absolutely not, under no circumstances was thereany actions brought on by the retained attorney after the no damage suit was dismissed by judge Brieant." Appellant complains to this Court: (reply affidavit 6); DPL&G affidant is now following the same procedures as his co-defendant Joseph H. Schnabel, Esq. when he falsifies affidavits, takes it upon himself to disregard the Court orders and both affidant and Mr. Schnable are very articulate in thier writings which gives the appearances of the truth, but thus far neither one of them has been brought before bar to testify on the truth of thier own sworn affidavits, or for that matter none of the defendants has been placed on the stand to verify thier affidavits, with the exception of two defendants on November 2 & 3, 1972, whereby your deponent was not permitted to testify in his own defense."

The aforementioned " LEGAL HARRASSMENT " within this Court and the lower Court, is finest example of offense manuevers by the appellees, with pleadings in defense, that the appellant is showering them with harrassment, which is contrary to the seven (7) pages preceding this paragraph. Without doubt, the New York State umbrella is shielding those who are the enforcers, that have been the worst violators, and those who are supposed to be the upholders of Constitution and Law, have been the worst offenders in the subject matters complained in the Complaint.

The appellees are completely silent in thier moving papers of the charges of conspiracy revolving on the basic subject matter of the TREMONT AVENUE BRIDGE, which was used to defraud the appellant, with coercertion into entering agreement, which was to become a documented instrument proclaiming fraud on the appellees part.

The appellees were silent on charges of kidnapping and, unlawful detaiment (Complaint 144 & 145), which in its self is a Federal crimminal offense, commonly known as the Lindberg Law, USC 18 : 1201 (a),; (4): (b) which states verbatim;

> With respect to subsection (a) (1), above, the failure to release the victum within twenty-four hours after he shall have been unlawfully seized, confined, decoyed, kidnaped, abducted, or carried away shall create a rebuttable

> presumption that such person has been transported in interstate or foreign commerce.
>
> (c) If two or more persons conspire to violate this section and one or more persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

which, is more specific " Hold prisoner until he preforms an act "(Complaint 142), and thier silence to the 16th Cause of Action (Complaint 151), and to 17th Cause of Action (Complaint (Complaint 159), and to 18th Cause of Action (Complaint 165), and to 19th Cause of Action (Complaint 177), and to 20th Cause of Action (Complaint 202), and to 23rd Caues of Action (Complaint 228), and to 25th Caues of Action (Complaint 245), and to 28th Cause of Action (Complaint 287). The appellees silence is an admission to each and ~~ever~~ every cited Cause of Action within this paragraph. Citations within Memos of Law, by the appellees can not overcome the Constitution of the United States, nor any statutes thereafter, whether it be State, Judge, Attorneys, Municipalities and/or sub-divisions, or those directly under thier immediate supervision.

The New York State Urban Development Corporation and the City of New York, the prime appellees now before this Court were in the center of all the related facts within the Complaint and, were aware of all facets, with overwhelming staff of legal representation, which did not apparently

did not suffice, whereby appellee UDC retained law firm of DPL&G to prosecute in thier behalf all the litigation against the appellant. DPL&G can not retreat from this factor, by claiming immunization on the Statutes of Limitations.

CLOSING STATEMENT

In this Bi-Centennial year of the United States and its Consitution, and Ammendments thereof, and Statutes thereafter must be upheld by states and all inhabitants, citizens as well as aliens. Upon the written Constitution of the United States, all laws were known as Common Law, accordingly laws were enacted by Congress as well as the states, however neither Congress, nor the legislatures of states can enact laws that over-ride the Constitution of the United States. Regardless of what law enacted by Congress or states, the rights of equity shall not diminish, nor can latches over-ride equity and " due process ". The mere scribing of pen, can not deemed as true justice, nor can inadequate hearings be considered justice. The Constitution of the United States, commands trial by jury, it commands that no property can be taken without " due process ".

In the instant case before this Court is rampant with complete disregard to the provisions set forth in the Constitution of the

Unied States, and been compounded in such depth to have submerged appellant to irrepairable harm, that one hundred fold above damages set forth in the Complaint, would not be able to restore his human stature in life.

CONCLUSION

For reasons stated heretofore, appellant respectfully submits that the District Court's dismissal of the Complaint was un-warranted, since it consisted of 28 Causes of Actions. Failure to annex some one hundred to two hundred exhibits to the Complaint for substanuation of the related facts therein described was at the instance of the District Court's Clerk (pro se) " write up your story . . . . we believe you . . . exhibits are not necesary ". That this Court should reverse the lower Court's dismissal and remand the case back to June 18, 1976, awarding judgements against appellees New York State Urban Development Corporation, City of New York and Pascap Scrap Iron Corp. and, award appropiate costs for appellant against the appellees that be just and proper.

Dated: Bronx, New York
October 13, 1976

Edward M. Alexanian

EDWARD M. ALEXANIAN
c/o Mrs. Jane M. Alexanian
2454 Tiebout Avenue
Bronx, N. Y. 10458
Telephone: 588-2521

Prepaired, written
and typed by the
appellant.

- APPENDIX -

Docket No. 76-7338

Docket Entries in the District Court	Documents
Complaint	1.
Application: forma pauperis dated December 22, 1975 & memo endorsement dated February 4, 1976	2.
Application; forma pauperis dated February 23, 1976 & memo endorsement dated March 18, 1976	3.
Summons & returns	4.
Notice of Motion by City of New York, etal	5.
Answer: Bronx Iron & Metal Corp.	6.
Notice of Motion by Debevoise, Plimpton, Lyons & Gates, etal	7.
Memo of Law by Debevoise, Plimton, Lyons & Gates, etal	8.
Notice of appearance by Robert Silagi	9.
Answer: Brookfield Auto Wreckers	10.
Answer: DeMatteis, etal	11.
Notice of Motion by N. Y. State Urban Dev. Corp., etal	12.
Memo of Law by Urban Development Corporation, etal	13.
Answer: N. Y. State Park Commission	14.
Answer Pascap Scrap Iron Corp.	15.
Notice of Motion by Pascap Scrap Iron Corp.	16.
Reply affidavit & demand for judgement	17.
Reply affidavit & demand for jufgement	18.
Reply affidavit & demand for judgement	19.
Reply affidavit & demand for judgement	20.
Reply affidavit of Clifford Case (Urban Dev. Corp.)	21.
Opinion No. 44606 (Judge Duffy)	22.
Notice of appeal	23.
Motion with memo attached dated July 27, 1976	23A.
Clerk's Certificate	24.

(21)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EDWARD M. ALEXANIAN,

Plaintiff,

-against-

NEW YORK STATE URBAN DEVELOPMENT CORPORATION, et al.,

Defendants.

MEMORANDUM AND ORDER
75 Civ. 6340

4/4/06

FILED
JUN 16 2 14 PM '76
U.S. DISTRICT COURT
SD. OF N.Y.

KEVIN THOMAS DUFFY, D.J.:

Various motions have been made to dismiss the complaint herein. I have spent many hours reviewing the 293 paragraph document entitled "Complaint", particularly with a view to interpreting it in the most favorable light since the plaintiff is appearing pro se. It now appears clear to me that the allegations do not make out any justiciable cause of action.

The action is dismissed.

SO ORDERED.

Kevin Thomas Duffy

U.S.D.J.

Dated: New York, New York

June 18, 1976

STATE OF NEW YORK)
) SS.:
COUNTY OF BRONX)

Affidavit of Service by Mail

OSCAR KUMJIAN, being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 1932 Crotona Avenue, Bronx, N. Y.

That on the 14th day of October, 1976, deponent served the within papers upon Barrett Smith Schapiro & Sminon, 26 Broadway and, Corporation Counsel for the City of New York, Municipal Building and, Attorney General of New York, 2 World Trade Center and, Mele & Cullen, 150 William Street and, Glabman, Rubenstein, Reingold & Rothbart, 32 Court Street, Bklyn, N. Y. and, Guazzo, Silagi, Craner & Perelson, 888 Seventh Avenue and, Debevoise, Plimpton, Lyons & Gates, 299 Park Avenue, all of New York City and, Fredricks & Goldberger, 175 Main Street, White Plains, N. Y., who are the attorneys for the defendants-appellees in this action, at the addresses designated by said attorneys for that purpose by depositing a true copy of same enclosed in a postpaid ~~wrappers~~ properly addressed wrappers in a offical depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Oscar Kumjian
Oscar Kumjian

Sworn to before me this
14th day of October, 1976

Jane Marie Alexanian
Notary Public

JANE MARIE ALEXANIAN
Notary Public, State of New York
No. 03-5044950
Qual. in Bronx Co. Certified with
Bronx County Clerks
Commission Expires March 30, 1978